

is 7 days after the date of the enactment of
the Small
Business Job Protection Act of 1996 and
ending on
December 31, 1997."

Subtitle C—Provisions Relating to S Corporations

SEC. 1301. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining
small business
corporation) is amended by striking "35
shareholders" and inserting
"75 shareholders".

SEC. 1302. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2)
(relating to certain trusts permitted as shareholders) is
amended
by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—
Subparagraph (B) of section 1361(c)(2) is amended by adding at
the end the following new clause:

"(v) In the case of a trust described
in clause
(v) of Subparagraph (A), each potential
current beneficiary of such trust shall be treated as a
shareholder:
except that, if for any period there is no
potential
current beneficiary of such trust, such
trust shall be
treated as the shareholder during such
period."

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361
(defining S corporation) is amended by adding at the end
the
following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of
this section—

"(A) IN GENERAL.—Except as provided in
Subparagraph
(B), the term "electing small business trust"
means any
trust if—

"(i) such trust does not have as a
beneficiary any
person other than (I) an individual, (II)
an estate,
or (III) an organization described in
paragraph (2),
(3), (4), or (5) of section 170(c) which holds a
contingent
interest and is not a potential current
beneficiary.

"(ii) no interest in such trust was
acquired by
purchase, and

"(iii) an election under this subsection
applies to
such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term
"electing

small business trust shall not include—

- "(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and
- "(ii) any trust exempt from tax under this subtitle.
- "(C) PURCHASE.—For purposes of Subparagraph (A), the term "purchase" means any acquisition if the basis of the property acquired is determined under section 1012.
- "(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term "potential current beneficiary" means,